UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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IAN GOOLSBY, Sr., #08B0632,

Plaintiff,

-v-

CITY OF ELMIRA,
ELMIRA POLICE OFFICER OAKS,
ELMIRA POLICE OFFICER ADAMS,
ELMIRA POLICE OFFICER MARRONE,
ELMIRA POLICE OFICER JOHN DOE #1,
ELMIRA POLICE OFFICER JOHN DOE #2,
ELMIRA POLICE OFFICER JON DOE #3,
ELMIRA POLICE OFFICER JOHN DOE 34,

Defendants.

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TRAVERSE IN RESPONSE TO DEFENDANTS' ANSWERING AFFIDAVIT

07-CV-631A

UNITED STATES DISTRICT COURT
FILED
MAR 31 2009
MICHAEL J. ROEMER, CLERK
WESTERN DISTRICT OF NY

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Ian Goolsby (hereinafter – Plaintiff), in response to Defendants' collective Answer to my amended complaint, allege upon information and belief that:

1. Plaintiff concurs with Defendants' admissions/acquiescence as to paragraphs 1 & 2 of complaint.

2. Plaintiff concedes to Defendants' interpretation and admissions as to paragraphs 3, 4, 5, 6, 7 & 8 of the complaint.

3. Plaintiff contest Defendants' not having knowledge as to the specifics of actions they themselves were actors in, as they have represented in Answer, paragraphs 9, 10, 11 & 12.

4. Plaintiff concedes the denial suggested in Defendants' Answer, paragraph 13.

5. Plaintiff refutes Defendants' denials contained in paragraphs 14 through 27. For, through discovery it will become evident that they not only know but also have documentary proof as to the underlying themes of Petitioner's claims, i.e.; police dispatch reports, dispatch logs, police impound procedure logs, police reports ect....

RESPONSE TO AFFIRMATIVE DEFENSES

There can be no affirmative defense to the abuse of any state or federal agency, department, or any of their entities, employees or agents either denying or abridging a citizen of the United States of his constitutional rights. And, any such denial or abridgement is subject to adjudication in an action to recover damages from the aggrieving parties to the aggrieved, pursuant to **Title 42 USCA §1983** *(Civil Rights Violations).*

Defendants' continuously claim the lack of knowledge or assert affirmative defenses relative to their specific actions taken against plaintiff on or about February 24, 2007. Plaintiff finds this deplorable in light of Defendants accosting him in front of his own home, while claiming that they were stopping him for some imaginary traffic infraction (which he was never charged with and he was already pulled over and parked) or because he had a warrant pending. The latter is ironic simply because the car Plaintiff was driving was a rental, if Defendants ran a check on this vehicles tags that would have found nothing relating to Plaintiff. So, where exactly do Defendants claim the "probable cause" in their answer?

Defendants claim probable cause at the very end of their affirmative defenses list (Number Thirteen), but continuously claim ignorance and lack of knowledge to any of the actions they took against plaintiff. Obviscation is not an answer.

Plaintiff' claims were, albeit in layman's' terms, set forth in his amended complaint as directed by the Court. Plaintiff was **"racially profiled"** by Defendants in the course of their official capacities as police officers, stooped (illegally), searched (illegally), deprived of property (money) and/or the disposal of rented property (and then charged by the City of Elmira for cost accrued by the impounding of said property) and thereby deprived of the protection guaranteed by the Fourteenth Amendment to the United States Constitution' "Equal Protection" and "Due Process" clause of same. Plaintiff would assert that the deprival of any one of the Constitutional rights, he certainly and plainly sets forth in his complaint do, in fact, state a claim sustainable in this Court.

AMENDMENTS

Plaintiff would request that he be issued a scheduling order to set forth a pre-discovery conference, pre-trial conference, an order granting him the power of subpoena and to effect discovery by interrogatory or demand for a bill of particulars. Such an order from the Court would assist plaintiff in acquiring information and documented evidence further proving his claims by exposing documentary evidence it is believed held by Defendants that would disprove some of their assertions in their answer.

WEREFORE the plaintiff prays that this Court would not entertain the Defendants request for dismissal before discovery can assist him (an indigent plaintiff), who being incarcerated has little or no access to resources that would assist him in putting his claims in front this Court and eventually, a jury and for such other and further relief as this Court may deem just and proper.

Dated: 3/30/09 ,________.
Collins Correctional Facility
Post Office Box 340
Collins, New York 14034-0340

Respectfully submitted,

Ian Goolsby, pro-se

To: U.S. District Court
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